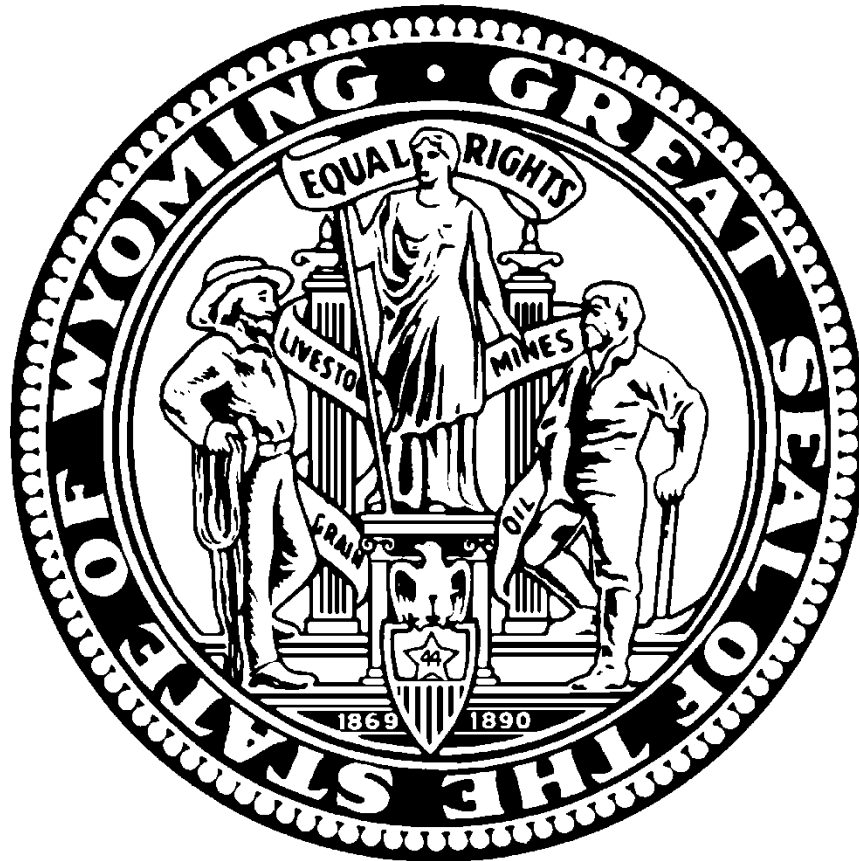


# State of the State • 2010

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Gov. Dave Freudenthal • Wyoming

*Delivered to a Joint Session of the Sixtieth Legislature of Wyoming assembled in the State Capitol on February 8, 2010.*



## Introduction

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Good morning to the members of the Sixtieth Legislature, special acknowledgment to Mr. President, Mr. Speaker, also to the Chief Justice and the members of the Wyoming Judiciary, but most of all we extend a greeting to the citizens of Wyoming. In fact, we are in the people's house.

The opening prayer is appropriate in that it recognizes that we in Wyoming are in a circumstance where we have the largest deployment of the Wyoming Army National Guard in our state's history. In 2009, I had the honor to visit a number of those troops in Iraq, Afghanistan and Kuwait, and we should be very proud. It was a wonderful trip, accompanied by three other governors.

At various stops, particularly several that were notable for Wyoming, our troops provided reconnaissance, and the guidance and instruction for this delegation of governors. I will tell you that it makes you proud to be there and to see the fine men and women in our Guard. They're doing a remarkable job.

The Air National Guard, while not at the same level of deployment, continues an active deployment throughout the world, particularly in support of various missions in the Mideast. They are active and busy. As you know, the Air Guard has the limited time. They're not gone for a year the way the Army Guard is, but they're gone much more often. The record number of deployments for Wyoming Air and Army Guard is an amazing testament to the dedication and the fidelity to this great country that our men and women in the Guard have. We are delighted by that.

I'm also delighted to tell you that some years ago when you created the Military Assistance Trust Fund there was some skepticism about its appropriateness. I remember a long and arduous path before it was established with uniform support from this body. That fund has given approximately \$1.9 million over the last few years to family members in the seven active duty Reserve and National Guard branches. It is working, and it is working well. There's a report available if you want to know how it was spent, but I will tell you it is one of those things that makes a difference for the men and women who continue to volunteer to protect this country. It is the least that we can do to continue that.

I also want to point out that we have remarkable employers in this state. As you know, they confront a great deal of disruption when the men and women who are in their employ either volunteer or call up and find themselves away from the workplace. Our employers, by and large, with some exceptions, have been incredibly considerate and supportive of men and women in the Guard. More than 400 Wyoming employers have been recognized with the Patriot Award, a recognition of employers who have been particularly loyal to their employees while they are deployed.

I believe that if you get a chance and you see one of those certificates hanging in an employer's place of business, make sure you thank them, and make sure you tell them that it is appreciated. We do not want to have our men and women deployed overseas worrying about whether or not they have a job when they come home. These employers perform a remarkable function.

In attendance today we have the Adjutant General, Major General Ed Wright, who has done a remarkable job in leading the efforts to prepare our troops.

We are also joined by, representing Wyoming's Air Guard, Staff Sergeant John Estes of the 153rd Civil Engineer Squadron and his wife Mandy Estes. Staff Sergeant Estes is a firefighter recently returned from Iraq. Also in the audience is his civilian employer, Dan Tinney. Please recognize them.

As you know, you cannot recognize the Air Guard without recognizing the Army Guard, and so we have here representing the Wyoming Army National Guard Staff Sergeant Jessica Lengerich, who is home on leave from the 115th Fire Brigade deployment in Kuwait, the unit which I visited when I was overseas. First Sergeant William Motley is here representing Army National Guard Spouses. His wife, Rebecca, is currently deployed with Sergeant Lengerich. Please give them recognition.

As I noted earlier, we have dedicated employers in this state. Not the least of those are those involved in law enforcement and public safety. As most of you probably know from your own community, an awful lot of the men and women who are in the Guard, either Air or Army, are also law enforcement, emergency medical technicians or firefighters in your local community.

The most significant of those that tends to stand out right now are the nine members of Natrona County Sheriff Mark Benton's staff have been deployed with the Brigade, and they are not back yet. Here to accept recognition on behalf of law enforcement and emergency responders is the executive director of the Wyoming Sheriffs and Chiefs Association, Byron Oedekoven.

I would note for the record that we all applaud Byron because he's no longer able to give us tickets. We're delighted you're here.

I would note for the record that many great leaders have passed in this last year, and one of the things that we all have gathered for over this past year have been the funerals of our friends, our leaders and the people we have come to admire in this state. I think we have benefited much by their collective wisdom, and I ask that you keep their families in your prayers going forward.

We also have a number of Legislators; several are new, several have moved from the House to the Senate. I note in passing that those changes have occurred, and we look forward to working with the new Legislators as well as watching the transitions.

## The Budget

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As you know, we are gathered for the budget session. Budget session is that time set aside by our state law for us to consider the budget to be adopted to govern the two years commencing in the summer of this year. The purpose of this session is to look at the budget first and then there are a significant number of other items to approach.

There are many reasons for this state to remain fiscally conservative. I say this at the outset because there will be a couple of threshold decisions that will be made by the Senate and by the House that will govern the discussions with regard to the budget; namely, the decision of whether or not you decide to go into the savings which we have set aside.

As you know, the budget that I submitted did not go into the savings and, in fact, the budget adopted by the Appropriations Committee largely observed that standard with the exception of the \$20 million that they took out of a savings account, which they said was not really a savings but as you look at it closely, it was a savings account. But it was not – frankly it doesn't do that much damage.

We need to be careful. One of the reasons is that this business about deleveraging as discussed in the periodicals and in the newspapers is going to continue. It is going to continue in a way that will continue to affect the availability of credit. This has and will continue to be felt on Main Street throughout this country.

I do not see a dramatic change that suggests this is going to be some aggressive and robust recovery. I believe that it is going to be slow; it is going to be difficult. Part of it is simply the absence of credit availability, particularly for small businesses, and not a matter that I see being resolved very quickly. The state should remain, I believe, fairly conservative.

The second reason is that the national economic news, while relatively encouraging from time to time, is incredibly inconsistent. As you know if you have watched the markets' performance, for a while people were saying, "You know, we're going to get over 11,000." The next thing you know, we are back under 10,000. If you watch the news, it is inconsistent and it is difficult to glean exactly which direction and at what rate this economy is going.



I hope it does not turn into a double-dip recession, and we have reason to believe it will not, but in absence of the *assurance* it will not, I would encourage us to be very careful. I have people who approach me in and out of my office, and I note that you're hearing the same issues, saying, "Look, Governor, you have somewhere between \$800 million and \$1 billion in reserves. We ought to go and spend that state money. I've got a project that needs to be funded and we need to step in and put the money out."

The Joint Appropriations Committee heard all those stories right after they finished with me. After the Appropriations Committee took their actions, then they moved on to you as individual members and particularly to the Speaker. I simply cannot support their position. I would encourage you when people say, "All right, the government needs to spend the reserves," ask them how they're managing their own finances and if they are prepared to bet their house, their savings, their livelihood on the very gamble that they're asking us to take with the State's money.

I encourage you not to go into the Legislative Stabilization Reserve Account. Stay out of that. I know there is some other money to be moved around to meet the needs you may feel most passionately about. Remember, we are only going to be under this budget for about six months before we gather again in Cheyenne. Six months. It is not so much time in a two-year budget.

The third reason we need to be conservative is to take your cue from the private sector. Some of you are in the private sector and understand that all of those companies have retrenched and most companies are not talking about a sort of robust economic recovery over the next few years. In fact, in Wyoming the recession has arrived later than in many other states. I hope it will not be as deep as it has been in other states, but bear in mind that we have the highest unemployment we have had in 26 years. You will see that reflected in the social service roles in the budget.

So while we all want to be optimistic, and I am optimistic about the long-term future of this state, I am not prepared to bet our financial future and to dip into those reserves. I think we need to hold onto them.

I appreciate the fact that the Joint Appropriations Committee adhered to that. I know the pressure that they were under. I know the groups that have come in, and it is painful. Many people in this chamber, along with myself, spent many years trying to make sure we had fully funded many programs, whether those for the developmentally disabled or for nursing homes or for any other number of things. We now find ourselves in a position where we are saying we are freezing reimbursement rates, we are not able to fund things at the level we wanted.

At that stage, the story turns from a plaintive sort of encouragement for us to add funding to an acerbic condemnation that somehow we do not care: We do not care about juveniles; we do not care about people in nursing homes; we do not care about water projects. I'd encourage you to understand that is the anger of the moment, and we need to put this budget together based on the proposition that the State needs to look not two years down the road, but maybe 30.

I encourage you to follow the lead of the Joint Appropriations Committee. In general, the truth is if you were to this afternoon decide that you wanted to adopt the budget exactly as it came out of the Appropriations Committee and go home, I would be just fine signing that budget. Let me repeat that – just in case you missed it. If you wanted to adopt the budget just as it came out, I would be glad to sign it.

Now, saying that does not mean that there are no disagreements between the committee and me. But I want to point out some of the reasons we're able to have a session in which the budget is going to be relatively important but probably not the most significant issue are some actions that have been taken over the last few years.

First off, last session you gave the Executive Branch authority to make budget reductions in your absence, and we exercised that authority, taking 10% from state budgets. We imposed restrictions on hiring in state government. We moved fairly heavily towards utilizing those kinds of stimulus dollars which would allow us to defer, frankly, some state spending; not supplant, but defer state spending.

Now, we arrived at that more than a year ago, thanks to your support. I know you did not give us specific authorization

for the employee freeze, but I also know you supported it. Without your support we would not have been able to enforce it because we have been through this before, where the Executive Branch says we are going to implement hiring restrictions, and then every Legislator comes in and takes up the case of their particular agency.

You folks did not do that. You supported us in our efforts to reduce employees, it has been successful, and I thank you for that. We have been on a glide path to make sure we are careful about expenditures, and that has been supplemented by your long history in this body of preferring one-time expenditures.

We were very careful, if we look back on it. We fully funded the Hathaway scholarship program. We fully funded capital construction. We fully funded any number of activities and did not get in a position where we were in debt, or where we had obligations extending beyond our capacity to fund it. We arrive here today the envy of many states – not by accident, but by a design that many of you here supported and we implemented.

One other thing should be noted. The other reason we are in pretty good shape is that since 2003, we have more than doubled the take-away capacity of natural gas out of this state. So while you have had a decline in price, it has been offset by the fact that you have had an increase in volume relative to the volume of gas being sold during the previous declines in this state, and that makes a significant difference. The efforts of the Pipeline Authority and those who supported it also had a bearing.

I believe the body should be pleased with the consequences of your actions. When other states say Wyoming is so lucky, I don't think it is so much luck. Hard work makes it look like luck. I think that this body has done a remarkable job and will continue to do so going forward.

Now, having told you how wonderful you are does not mean I am in complete agreement with what came out of the Appropriations Committee, so as is my wont, I am going to list a couple things I would like you to reconsider.

I do not support the decision by the Appropriations Committee to significantly reduce school capital construction.



There are three reasons. One is about the only thing that is going to generate jobs in this state for construction is going to be public construction.

Second, we are getting some of the most remarkable bids we have ever seen in terms of school construction.

I am also troubled by the fact these reductions were accomplished by essentially dropping four projects off the bottom of the School Facilities Commission list, not based on the valuation of the projects, just sort of, "We need to save \$50 million; let's cut it off the bottom."

The decision of the committee to reduce overall funding by 8.5%, based on changes in construction costs, is fine with me. It does not change the number of projects we will be doing. However, I think we need to be cognizant of the fact that we have told school districts, "If you will play by the rules, and not come to the Legislature and ask for special bills, we will keep building schools."

Suddenly we find ourselves about halfway through the process and we are beginning to say, "Not so fast. Let's not quite do what we said we were going to do." I would encourage you not to deviate from the commitment we made to those districts.

Capitol construction project funding is straightforward in terms of the UW Art Center, the travel center.

One item I would draw to your attention is the question of the liquor warehouse. At the tail end of the considerations by the Appropriations Committee, they altered the means by which we are going to finance it. I suspect many of you heard about that. We suggested long-term bonds payable out of liquor receipts, because we are a liquor-control state. The Appropriations Committee decided to compress that and essentially cause an increase in fees on the liquor warehouse to pay it off faster. It is not saying we will not buy it, just change the method by which we will do it.

I really do not care which way you're going to do it, but do not fail to move on the warehouse. It is a good buy for the State. It is an appropriate buy for the State, and it works. I will leave it to your good graces as to whether you want to charge an additional fee upon the people who consume alcohol in this state, or whether you want to just average it out over time.

Either way is fine with me, but I would encourage you not to get into a row and fail to act. It is an appropriate step for us to take, and it is a facility that meets our needs.

I also am nervous about the actions taken by the Joint Appropriations Committee on state retirement. As you know, over the last two years we have had significant changes to the fund, and have added about \$75 million to help cover any shortfall that might be on the education side of that fund.

By virtue of the change in the economy and the status of the fund, there are issues, which I think are going to compel us over time to require state employees to make a greater contribution to the retirement fund. That portion, in terms of it being the ultimate outcome, I am comfortable with that.

What I am not comfortable with is the decision by the Appropriations Committee to proceed so quickly. What I did in my budget was to acknowledge we will need more money. I put aside \$48 million. We can figure out over the next year the right structure, the right mix, between added funds from the State and added funds from the employees because, remember, what we are doing is changing the way the employee contributes to it, which is not an improper move on our part. But there are some other assumptions that I think need to be evaluated over the next year.

One is that ours is a fixed benefit plan, and we have had a habit of taking a fixed benefit plan and inserting cost of living increases. We need to assess whether that makes sense and whether we need to reevaluate the structure of the plan and the role of the employee.

The reason I set \$48 million aside is I believe the retirement account is going to need more money. I think you put more money in, you don't just do it because somebody came in and said, "Oh, the world is ending." You say, "Okay, the world is ending, but what's our strategy to keep it upright?"

We ought to have a strategy with the money and not just head off, make a decision. This is a decision that has severe implications for current employees and retirees going forward. I think one of the things you cannot do is discuss this issue without settling on a policy one way or another about the cost of living increases. The impact is serious and it is one that I hope we evaluate.

I do not take grave exception with the proposition state employees are going to have to pay more. What I am worried about is we have headed off on a course of action and do not have a strategy. We are talking about billion-dollar decisions here.

I think we should follow the old carpenter's rule: *Measure twice, cut once*. On the other hand, the Appropriations Committee, at the tail end, had the saw out and they were cutting whatever lumber needed to be cut so they could get out of there. I hope we will take another look at it.

I want to talk quickly about the Health Department budget. The issue there continues to be Medicaid. Now, everybody says we got the increase in Federal Medical Assisting Percentages from the federal government. We did. Remember the basic structure of Medicaid is 50% federal, 50% state. The feds have upped their share a bit.

That is more than offset by the fact that we had predicted about a 2.5-5% increase in enrollment in Medicaid. It turns out it is closer to 8%, and we are ending up with a severe difficulty just keeping the thing in the black with the programs funded today. We are about \$355 million in the water. Say roughly half of that is federal. The state half, \$116 million, is addressed through the reallocation of the FMAP money in the stimulus program. An additional \$26 million is addressed by freezing reimbursement rates, and the rest is made up from a series of other funds.

I alert you to this because people have come to me and said, "Look, you have extra money in Medicaid from FMAP." We do not. We do not have extra money. In fact, there is some question whether current appropriations will be adequate to get us through. In recognition of that, you will see we have set aside a reserve account in the Auditor's Office, which has been supported by the Appropriations Committee. If we are wrong, we have some fallback funding it to make sure that in fact we continue to fund it.

Be careful when people say, "You have all the stimulus money from the change in FMAP, so fund my program." I need to tell you: it has already been allocated. It is already in use. Even with that, it may not be adequate to balance what is going on.

The other major uses for stimulus money include the funding of major maintenance at the University of Wyoming and community colleges. The way that money came to us allows us to allocate it and it helps all of those collective institutions fund major maintenance at a level that they have not had for years.

There is one element in both of those budgets that could turn out to be a continuing expenditure, depending on enrollment numbers in community colleges. We took \$8 million of the stimulus money to address increases in enrollment, in exchange for freezing tuition for one year. That could turn out to be an ongoing expenditure in the event that the enrollment numbers stay where they are.

Similarly, at the university there is about \$4 million that could turn out to be permanent. Otherwise, the stimulus dollars have not been used on the basis of expenditures that could continue into the next budget cycle.

So be careful when people talk to you about stimulus money. We may or may not have it.

There is one other thing I want to talk about in terms of the appropriations bill. I am not satisfied with the language in the early draft that I saw. I am not satisfied with the language to direct how we are going to recalibrate school funding. As you know, I sometimes find myself in trouble with part of the body by observing that we need to ask hard questions about education funding. My position has not changed on that.

Here is what I would point out. Our opportunity to do that – to ask the hard questions – is during recalibration. According to Webster's dictionary, calibrate means to measure against a standard, *to measure against a standard*. The way we approached recalibration in the past was to ask, "How much more money do we add?"

I do not believe we should do that. The way we should do this is to recalibrate education funding against a standard: *Is it producing the results we expect?* Our opportunity to do that is in the recalibration process. I encourage, when that footnote comes through, it be rewritten to give to the overseeing committee the capacity to ask really hard questions and to get evidence-based answers how it is we're spending money on

education, what it is it is producing in the classroom, and why it is that we are not getting a better result.

In this state, we are writing off at least *one out of four* and arguably *one out of three* kids in terms of completing their education. We are also settling for far lower scores than we should, and our chance to address that is in the heart of this matter: recalibration.

## Responsible wind energy development

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We have talked to you about four bills that relate to wind energy. Two bills amend the Industrial Siting Act. One ensures the right sorts of facilities are covered, to make sure the facilities are properly regulated and the people who are dealing with those to get an extra bump in sales tax.

The second bill relating to the Siting Act contains provisions that essentially set minimum state standards and give our 23 counties the choice to set higher standards. Counties may also defer these decisions to the Industrial Siting Council, if they want to. I encourage you to look at both of those bills.

Two items are controversial: One is my suggestion that we suspend wind generation companies' power of condemnation to build collector power-lines. I do this mindful of the fact that it is going to produce some significant controversy.

Let me argue this to you very carefully. The exercise of eminent domain by a private party is the exercise of a *state authority* granted by the Legislature. It is a decision by the Legislature to prefer one group's property rights over those of another.

When wind companies say to you, "We don't use eminent domain," the truth is we have not used a nuclear bomb since World War II, but the existence of the deterrent nuclear arsenal has colored every discussion about international and national security in that time.

The same is true with regard to eminent domain. The fact it is not used does not mean it is not a part of the



conversation. We need to think carefully about the extent to which we are going to put the state's thumb on the scale favoring one party over another in private property discussions.

I am not suggesting we do away with it forever. I am suggesting we take a one-year hiatus, that the Legislature create a committee and we look at how eminent domain is going to work going forward. This moratorium is limited to collector lines, and it is limited to collector lines for a reason.

Under a lower range of possibilities of development of wind resources in this state, you could have 1,500 miles of collector lines. Under a higher range – built around a 12,000-megawatt scenario – you could have 2,100 miles. The acreage on the low range is 27,000 acres. The high is 40,000 acres that might be needed collector lines, and 40,000 acres subject to eminent domain.

I think those parties ought to negotiate that on a free market basis without the State having its thumb on the scale. I hope that you will consider that.

The second controversial item is a discussion of a tax. It has drawn some controversy, and I will tell you the following: If you look at the wind energy industry, it is the most heavily subsidized industry in this country from the federal point of view. It is also an industry that enjoys the sort of energy *de jour* in terms of people saying, “You know, it is important.” That is not my particular quarrel.

Wind is something that has become very much the *cache* source of energy, in part because of former Vice President Al Gore and his movie “An Inconvenient Truth,” that somehow wind is the answer. Wind is a good idea for Wyoming. We have 40% of the best wind resources in America in Wyoming. It can be a remarkable industry for us. It can help keep people in agriculture. It can help people get jobs and it can bring some manufacturing to the state.

Having said all of that, the industry is not entitled to a free ride. In my lifetime, this is the first opportunity this state has had to diversify its tax base. I can remember in this body, and some of the members are still here, the Legislature actually ended up talking about whether we were going to impose an income tax because we did not have a diverse enough tax base.

I would encourage you to think about this before you allow yourself to say, “Well, it is a political season. We want to do no new taxes.” Explain it however you want, but at the end of the day this is the decision you are confronted with. *Will you side with the former Vice President, or will you side with the County Commissioners in this state, the people that need the money, and the people dealing with the end result?* Will you side with future generations who are entitled to have the opportunity to live in this state, enjoying the tax environment we have today? I would encourage you to think very hard before you reject this proposal.

After I made this proposal, suddenly people were willing to talk to us about it, so you may want to change it some. Some people have said, “Give the counties their share, 100% of the tax. Let the State wait a while.” That may make good sense. I would encourage you not to walk off from this.

We have been through this with oil and gas. We have been through this with coal. It is always the same thing. The industry hires a set of lobbyists, local folks we know, who come in and say, “The world will end if you pass this tax.”

Then we get to the politics of it: “Oh my gosh, if I vote for the tax, the other side will use it against me in the election.” Every time, when this body finally gets its act together, we do the *right thing*, which is to come up with a reasonable tax policy that says if you are going to do business in Wyoming, you are going to contribute to the well-being of Wyoming; you are going to contribute to schools; you are going to contribute to highways. Nobody gets a free ride.

In the interim, we have an awful lot we are going to see. I have jokingly referred to the fact that with the sort of song and dance I'm getting from the lobbyists, the next thing you know I'm going to see “An Inconvenient Truth” as a musical.

Think about what it is you are being asked to do. You are being asked to diversify the state's tax base. You are being asked to be reasonable with regard to the impacts to local government and you are being asked to make a decision that says nobody in this state gets a free ride. I want wind energy. I believe it is good for the state. However, it must be on terms fair to the state and the citizens of the state.

I hope that you will consider those four bills.

## Carbon Capture and Sequestration

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There is legislation coming to you on Carbon Capture and Sequestration, House Bill 17. I was in Washington D.C. when the Obama Administration announced that it is going to have a big federal task force to study carbon capture and sequestration.

I wanted to say, “Skip the task force. Come out and see what the Wyoming Legislature has done, adopt it, and move on.” It would save us a lot of trouble. It would save Washington a lot of trouble.

This body has led the country, and led the country proudly, in working out how to deal with carbon capture and sequestration. I commend you for it, and I particularly commend those who have dedicated an immense amount of energy in sponsoring these bills.

The wonderful irony is that the Legislator who has been most dedicated to this is the Legislator from the largest coal-producing county in America – our beloved Campbell County.

In that same context, there is \$45 million in the University of Wyoming budget for carbon capture and sequestration research, from Abandoned Mine Lands funding. I know there has been some discussion about whether or not we should divert that to other ends. Do not divert that. We have made a commitment that those dollars will be matched by private money.

Legitimate test projects on carbon capture and sequestration are probably going to run in excess of \$100-150 million. We need to be on the forefront. We need to demonstrate through the School of Energy Resources carbon capture and sequestration works.

It is vital to this country. It is vital to the future of Wyoming.

What we want to do as a state and as a country is demonstrate that these technologies work. Then we will *sell* these technologies to China and India instead of *buying* the technologies from them. Let the technologies developed at the University of Wyoming support this effort. We can lead the world in this regard.

## Juvenile Justice Reform

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An issue of great concern to me from the beginning of my Administration and to this day is juvenile justice. Two items are before you: Senate File 9, *Juvenile Detention Facilities Standards*, and House Bill 12, *Juvenile Admissions Criteria*. I urge your favorable consideration of both of those pieces of legislation. The Wyoming Association of Sheriffs and Chiefs of Police support both.

It is time that we have a degree of uniformity in this state about how we treat juveniles. We have allocated \$50 million of stimulus money to a series of juvenile detention facilities around this state. These facilities create options, so when we have juveniles that need to be detained they can be taken someplace other than hard lockdown with adults. Adults, whose offenses usually far exceed anything we would like these young people to be around.

One of the ways to ensure we are making the proper decisions about incarceration and treatment of juveniles begins with your support for these two bills. They enjoy the support of the Chiefs' and Sheriffs' Association, and I hope they will enjoy yours.

## Property Tax Issues

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I think there are several things relevant to property tax. You will see an alternative appeal procedure presented to you, where County Commissioners, acting in their capacity as county boards of equalization. I urge you to adopt that. It is a option which would allow County Commissions, if they are desirous of not acting in that capacity, to appoint people who would serve in that capacity, which will allow for better processes. Some County Commissions have a lot of time to devote to it. Others do not. I would urge you to give that option to those Commissions.

A decision from the State Board of Equalization, arising out of a valuation question in Park County, provides a reason to support another piece of legislation. The State Board of Equalization took exception to the actions by the Assessor, which resulted in a shovel-ready property being taxed not on its current value, but at the sale value of nearby, improved lots.

This is what happens: Someone develops a subdivision. They sell a couple of lots and develop it fully. Those lots become the basis for the entire valuation of that subdivision, even if the market has changed, and those lots can no longer sell for that amount.

I would encourage you to adopt legislation. Vote for local economic development and for people who are developing property. Be more fair with regard to how you value it.

The reason is simple. We keep complaining we don't have the capacity for people to build houses in Wyoming. Yet when builders develop the subdivision, get the sewer and water and get it shovel-ready for housing, we turn around and decide to tax them in a manner that makes it difficult for them to keep those lots in inventory so they can develop them.

We end up incentivizing builders to make decisions about their developments by considering what the incremental sale will look like, not by what the development should look like.

Please, make the statements of consideration public. For those of us who have heard from taxpayers who say, "I can't figure why my property is valued the way it is. I go down to the Assessor and try to take a look at what the values are for other properties. I can't see the statement of consideration."

If someone wants to contest their tax assessment, it seems to me only fair to let them see the valuations of their neighbors' properties.

## **Economic Development Proposals**

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I hope you will consider several economic development proposals. One is a sales tax incentive for data centers. Wyoming should be competitive for these facilities, with our great power rates. What we lack is the capacity to compete in a broader field. One of those areas where we're having trouble is that our sales and use tax is applicable to equipment in data centers.



Why is it important? Data centers change out their equipment on a three-year running cycle. They look to that and say, "If we can get in a position in a state or locality where we're not paying the sales tax, it is worth quite a bit to us," because it is not a one-time payment for them. They move that equipment up every three years.

Cheyenne and Casper are going to be the two beneficiaries from this. I do not want to be vague about that. There is talk from time to time about data centers in other parts of the state, but the two most logical places, based on the power availability and communications, are Casper and Cheyenne.

This is a way for us to encourage two things: diversification of our economy and in-state utilization of our electric power, a good thing for us. It helps average out the rate base.

There is also an economic development capital formation. You have seen this bill before. It is an offset against the insurance premium tax to, hopefully, make capital available to small businesses in the state. It relates back to my earlier comments: Part of the slowdown in this country is because of the availability, or scarcity, of capital. I hope you will look at that bill, and I hope you will consider it.

## Workplace Safety

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We should also address the question of workplace safety. Three items came out of the task force. You should increase Occupational Safety and Health Administration (OSHA) penalties. Interestingly, that legislation enjoys the support of the many people in industry. In fact, *most* of the industry is in favor of that legislation to increase penalties.

The second workplace safety issue concerns seatbelts. I know I am walking into a briar patch. It is one of those issues where people say, "I shouldn't have to wear a seatbelt." There is going to be legislation offered to change to try to encourage people to use seatbelts.

If you look at data developed over the workplace safety effort, about 40-50% of vehicle accidents are one-car rollovers

to and from work where people were not wearing their seatbelts.

I understand the political difficulty of talking about seatbelts, but at our house the rule always was, if you are in the vehicle, you have a seat belt on. *The vehicle doesn't move until you have a seatbelt on.* Even now, we look to see if everyone has their seatbelt on. We all say this is the rule in our family. It is the law in each of our families – of everyone sitting here – but somehow we are afraid to say that it should be the law of the land that you pay a higher penalty if you don't have a seatbelt on.

It is not unreasonable to expect people to exercise responsibility and not just to enjoy rights. We have to begin to realize that with rights there comes some responsibility.

It is not a big impediment, and I hope that you will look at that legislation.

## **Impaired and Drunken Driving**

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There are two bills, one in the House and one in the Senate, proposing to increase the penalties for impaired driving.

I hope one of those bills makes it to my desk.

I learned long ago not to get between the Senate and House, not to get between sponsors on bills. I want both of the sponsors and their various supporters to reconcile their differences and get me one bill, just one. Either bill is an improvement over the status quo.

I think it is absurd, that we should have to sit here and discuss drunken driving. We should not tolerate it, and we should take whatever steps we need to take. I understand it is difficult, but I hope that you will look at those bills.

## Responsible Health Care

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I want to talk about the project that we're going to bring to you again which is our health reform demonstration project. Last year it did well in the Senate and gets to the House... and dies. Characterized as creeping socialism on the third vote, it dies. I would hope that you will reconsider that.

What we are asking people to do – I do not believe it constitutes socialism – is to contribute something to their own health. They have to participate.

We expect them to work at least 20 hours a week to participate in this pilot project. We expect them to take responsibility for their own health. As all of you know, this question about cost containment fundamentally comes down to whether we take better care of our own health.

We do not say, “That operation costs too much,” and not try to provide it to our family when a loved one falls ill.

We must control utilization and the only way to control utilization is to control health.

We expect participants in this program to follow their doctor's orders. The project calls for people to have greater access to their primary care physician. What we are looking for are those things that drive the system in terms of cost.

We are looking for early detection of diabetes. We are looking for early detection of cancer. We are looking for early detection of heart disease. With any ailments that can become chronic diseases, we are looking for early detection. In order to stay in the pilot program, participants will need to follow their doctor's advice if one of these conditions turns up.

Which part of that is socialism? The part where we ask people to be responsible? The part to pay for their own insurance? The part where we ask people to work? I encourage you to rethink this and take a shot at it.

We do not need to wait for the federal government to address healthcare. We *cannot* wait. If we do, I fear most of us in this room will probably no longer be in need of healthcare. We will be on the other side of the grass.

Maybe that is not a bad outcome. We cannot wait and we should not wait. I just spoke about how much healthcare costs are going up, the impact on Medicaid, not just through enrollment but also through the costs. On the other side I talked to you about some things that would help control that cost.

We have got to begin to demonstrate, and innovate, the ways by which we can control those costs. In the long run, this society cannot afford to pay 17-24 cents of every dollar in this economy to healthcare. We have to take more responsibility for ourselves.

## **Restoring State Sovereignty**

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I would like to address my proposed amendment to the Federal Constitution. I want to make clear several things at the outset.

I do this advisedly. I previously commended a standard resolution where we beat the desk and talk about it, and I have done that for years. I wrote speeches for Ed Herschler when I was a young man railing on the federal government. I wrote them for Mike Sullivan, and now I write them for myself.

All of them have accomplished about the same as you'd expect. I have signed resolutions. I have done testimony, and here's where I end up. We need to go to the source of the problem.

The source of the problem is the expansion of federal power. We can amend the Wyoming Constitution. We can draft legislation. I can sign resolutions, and I will continue to be glad to do all of that with you. But it does not change the basic dynamic of the power of the federal government.

The only avenue to address the root of the problem is within the organic document of that federal power, which is the Federal Constitution. I am not one of these people who is talking about secession from the Union. I think that the experiment of the United States is the most remarkable thing I have ever seen. You have 50 states. You have a common federal government. We are a remarkable country. I do not support

secession. I do not support repealing the Civil Rights Act or National Voting Rights Act or any of the rest of it.

What I *am* talking about is clear language to re-establish the notion that this is a federal system. There are States and there is a Federal Government, but there are States and prerogatives. I encourage you to consider it seriously. It is not something I take lightly. If I took it lightly, I would have just left it at the basic resolution that allowed me to rail against the federal government.

This is serious at this stage. We are at a point, whether it is No Child Left Behind or the latest set of rules on how you report domestic violence numbers, at the end of the day the federal government is regulating nearly everything, nearly everything.

*The states need to be more than empty vessels whose job it is to execute federal policy.*

The only way to ensure that is to very delicately try to re-establish the balance between the federal government and the states. Does it work? I do not know. I do not know whether this can be done.

But I propose we try.

I propose that it be done in the same manner that the Constitution has been amended 27 times over our history, including the first ten amendments, the Bill the Rights. I do not think we ought to have a constitutional convention. We have a process that works. I hope that we – that you – will look at it and take it seriously.



## Overdue Progress Beckons

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There is also a bill that would clear up some ambiguity in our statutes. The Wyoming Supreme Court released a decision in which they identified two ambiguous terms of our statutes that have to do with the point of valuation of natural gas.

Under our law, and properly so, a tie goes to the taxpayer. The statute is ambiguous in the definition of where we set the point of valuation for gas permits. You have a bill to re-establish what we had thought the law was, and to set in law unambiguous definitions under which people have paid taxes for at least 20 years

The Court probably made the right ruling, in which a tie goes to the taxpayer. Now I hope you will clear up the language in statute to remove any ambiguity.

Finally, I sincerely hope this is the year in which this Legislature sorts out distance learning and videoconferencing.

These are issues we have been discussing and re-discussing for ten years or longer. My budget recommendations include creating a “Center of Excellence” at the University of Wyoming for distance learning. At the same time, UW will be given responsibility for solving part of the videoconferencing question.

It is absurd that the Governor of the state cannot, like any other business I go visit, talk to people via videoconference.

I can talk to my children in India on videoconferencing, but I cannot talk and do not have the capacity to meet with the head of the Oil and Gas Commission in Casper, or to meet with the director of Workforce Services in Gillette. We need to become much more serious about utilizing technology, in part because it saves money, in part because it saves time. I think it makes a great deal of sense, and I would urge you to support it.

## **Conclusion: Even as Serious Issues Threaten, Serious Opportunities Await**

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We have a remarkable opportunity because the budget is straightforward. We have an opportunity to address other issues, some of which I have discussed, and I hope you will. As we gather, we do so in an election year. The question then on everybody's mind is, "*How does this all sort out?*"

What I would encourage you to do is to set all of that aside and focus on the work that is before us. Where do you find the inspiration to do that? I think we find the inspiration to do that in the remarkable citizens in this state. I know from time to time I am criticized about using the airplane and traveling this state. But I tell you, there is nothing more wonderful and there is nothing more invigorating than traveling this state and talking to the people.

They *will* talk to you, as you know, and they have lots of advice. Some of it is really good – and sometimes they tell me where I can go, and that I would rather disregard.

You watch the people of this state, as they deal with their contracting personal wealth. They are dealing with businesses where they do not have the kind of income that they had only a few months or years ago. They are dealing with layoffs.

They are dealing with the consequences of the recession in ways that should inspire us how we handle our own responsibilities as public servants to manage this budget.

If we can manage our budget as well as those citizens manage their lives and their economies, we will survive this and we will be stronger. It will be a better place for future generations.

When we find ourselves confronted with serious issues, such as those that loom beyond the budget, we must remember that we are confronted, too, with serious opportunities.

We have a chance to make progress. We have a chance to make a statement about what we want Wyoming to look like in the future, whether it is how we manage wind energy, which is probably the most significant force of change in the state, or how we handle impaired driving.

Each of those decisions that we make are statements about what we want the future to be like. Some of you are already talking about what Wyoming will be like for your grandkids. Some of us, we still talk about what we want it to be like for our children.

We want them to have the opportunity that we have had. We want them to have the economy that we have had. More than anything else, we want their lives to be a bit better. We can leave this earth feeling good about what we have done, if we have made sure that not only did we do no damage, but we made things better, better for the next generation, better for those that we were around and better for the great state of Wyoming.

Thank you very much and God bless you.

